

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA, :
v. : Case No. 3:00-cr-01-KRG-KAP
SEDRIC A. MORRIS, :
Movant :
:

Memorandum Report and Recommendation

Movant Sedric Morris filed a pleading that the Clerk docketed at docket no. 73 as "Motion for Reconsideration of Rule 3582(c)(2) Motion Pursuant to Rule 60(b)(6), in light of an intervening change in the law." It was referred to me under 28 U.S.C. § 636(b)(3). It should be denied. The Clerk should note movant's current address on the docket.

Movant Sedric Morris previously filed a motion under 18 U.S.C. § 3582 at docket no. 81. It was denied at docket no. 82, because Morris is serving a supervised release revocation sentence and Section 3582 is inapplicable. Although Morris cites Fed.R.Civ.P. 60, the motion at docket no. 83 is not a motion to vacate the ruling by the court at docket no. 82 on the basis of a change in law (the case relied on by Morris, Pepper v. United States, 131 S.Ct. 1229 (2011), does not make a change in the law relevant to Morris because his sentence has not been reversed and remanded for resentencing), it is rather a request for reduction of sentence on the basis of Morris's asserted success in rehabilitation and education programs while in custody.

If the court had a basis for resentencing Morris, under Pepper the court could take his rehabilitative efforts into

account. United States v. Diaz, 639 F.3d 616 (3d Cir.2011). But movant cannot bootstrap his way to resentencing solely on the basis of post-sentence rehabilitative efforts: neither Fed.R.Crim.P. 35 nor 18 U.S.C. § 3582(c) provide this court the power to grant that relief.

Pursuant to 28 U.S.C. § 636(b)(1), the parties are given notice that they have fourteen days to serve and file written objections to this Report and Recommendation.

DATE: 10/15/12

KAP
Keith A. Pesto,
United States Magistrate Judge

Notice to counsel of record by ECF and by U.S. Mail to:

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